REMARKS/ARGUMENTS

In the Office Action issued March 23, 2009, claims 1, 2, 4, 7, 9, 12, 13, 15, 18, 20, 23, 24, 26, 29, 31, 34, 35, 37, 40, and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dumarot et al., U.S. Patent No. RE38,865 ("Dumarot") in view of King et al., U.S. Patent No. 6,252,592 ("King"). Claims 5, 6, 10, 11, 16, 17, 21, 22, 27, 28, 32, 33, 38, 39, 43 and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dumarot in view of King and further in view of Applicant's Admitted Prior Art ("APA"). Claims 1, 2, 4-7, 9-13, 15-18, 20-24, 26-29, 31-35, 37-40, and 42-44 were provisionally rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over claims 1-28 of copending application no. 10/730,901 in view of King.

Claims 1-2, 4-7, 9-13, 15-18, 20-24, 26-29, 31-35, 37-40, and 42-44 are now pending in this application. Claims 1, 12, 23, and 34 have been amended to clarify the subject matter that the Applicant considers to be the invention. Claim 23 has been amended to correct the antecedent basis and claims 26, and 29 have been amended to correct their dependencies. No new matter has been added.

The Applicant respectfully submits that claims 1, 2, 4, 7, 9, 12, 13, 15, 18, 20, 23, 24, 26, 29, 31, 34, 35, 37, 40, and 42 are not unpatentable over Dumarot in view of King because even if Dumarot and King were combined as suggested by the Examiner, the resulting combination still would not disclose or suggest the requirements of the claims. Dumarot discloses optimizing the operation of a computer system in running application programs in accordance with system capabilities, user preferences and configuration

parameters of the application program. However, Dumarot does not disclose or suggest the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes to display values of different application parameters, the second portion continues to display the measurements of performance of the application", as is required by claims 1, 12, 23, and 34.

In particular, at col. 3, lines 25-40, Dumarot discloses to "optimize software running on a computer. The term 'optimize' refers to running of a computer system or software more efficiently. ... Optimization includes the setting of various parameters in hardware, operating system software, or application software such that the system as a whole runs as efficiently as possible". Nothing in this portion of Dumarot discloses or suggests anything about what is displayed.

At col. 4, lines 43-60, Dumarot discloses an "optimization database table 140", an "optimizer program 136", and "various user applications 138". The only place where this portion of Dumarot discloses anything that is displayed is at lines 56-58: "The optimizer program 136 may contain a graphical user interface 139, used to specify settings or provide information to the user." This portion of Dumarot does not disclose or suggest the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes

to display values of different application parameters, the second portion continues to display the measurements of performance of the application".

At col. 5, lines 55-67, Dumarot discloses that "optimizer 136 monitors system 12 behavior". ... This monitor program 137 may contain a graphical user interface 139 that displays such activity in graphical form, such as with bar graphs, pie c[h]arts, numerical indicator, gauges, etc." This portion of Dumarot discloses specific graphical elements having specific well-known behaviors, but it does not disclose or suggest the display elements and display behaviors recited by the claims, namely, the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes to display values of different application parameters, the second portion continues to display the measurements of performance of the application".

At col. 6, lines 9-25, Dumarot discloses reading user input that "specifies a level of optimization 326". On example of optimization is "[a] user wising to have maximum performance may, for example, sacrifice graphic quality controlled in applications settings 420, that are generally read upon invocation of application 138." This portion of Dumarot further discloses particular parameter settings that can be adjusted in a particular file "the Unigraphics control file". This portion of Dumarot does not disclose or suggest the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes

to display values of different application parameters, the second portion continues to display the measurements of performance of the application".

King discloses visual elements of a graphical user interface that are enabled for access by a user in a specific order. King discloses a number of elements of such a graphical user interface. For example, at col. 2, lines 23-40, King discloses the "tabbing" order, which is the sequence in which visual elements of a user interface will receive "focus" when the "tab" key is pressed. As is well-know, the "focus" simply indicates which element will receive the user input, such as when the user presses a key. This portion of King does not disclose or suggest interface displays that emphasize importance of a particular parameter over another parameter, wherein the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes to display values of different application parameters, the second portion continues to display the measurements of performance of the application. Elsewhere, such as in Figs. 2 and 3A-3D, King discloses a variety of visual elements. However, King discloses the effect of changing tabbing order on these visual elements. King does not the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes to display values of different application parameters, the second portion continues to display the measurements of performance of the application".

As a result, even if Dumarot and King were combined as suggested by the Examiner, the resulting combination still would not disclose or suggest interface displays that emphasize the importance of a particular parameter over another parameter.

Therefore, claims 1, 12, 23, and 34, and claims 2, 4, 7, 9, 13, 15, 18, 20, 24, 26, 29, 31, 35, 37, 40, and 42, which depend therefrom, are not unpatentable over Dumarot in view of King.

The Applicant respectfully submits that claims 5, 6, 10, 11, 16, 17, 21, 22, 27, 28, 32, 33, 38, 39, and 44 are not unpatentable over Dumarot in view of King and further in view of APA because even if Dumarot, King, and APA were combined as suggested by the Examiner, the resulting combination still would not does not the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes to display values of different application parameters, the second portion continues to display the measurements of performance of the application", as is required by claims 1, 12, 23, and 34, from which claims 5, 6, 10, 11, 16, 17, 21, 22, 27, 28, 32, 33, 38, 39, and 44 depend. The APA cited by the Examiner merely lists some configuration parameters, and does not provide any teaching or suggestion as to the relative importance of such parameters, does not provide any teaching or suggestion regarding emphasizing the importance of a particular parameter over another parameter, and does not the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application,

wherein when the first portion changes to display values of different application parameters, the second portion continues to display the measurements of performance of the application".

As a result, even if Dumarot, King, and APA were combined as suggested by the Examiner, the resulting combination still would not does not the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes to display values of different application parameters, the second portion continues to display the measurements of performance of the application".

Therefore, claims 5, 6, 10, 11, 16, 17, 21, 22, 27, 28, 32, 33, 38, 39, and 44 are not unpatentable over Dumarot in view of King and further in view of APA.

As application no. 10/730,901 has not been allowed, the double patenting rejection is provisional. However, Applicant respectfully traverses the provisional rejection of claims 1-44 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-28 of copending application no. 10/730,901 in view of King. As discussed above, King does not does not the feature of "the interface comprises a first portion operable to display the current values of application parameters, and a second portion operable to display the measurements of performance of the application, wherein when the first portion changes to display values of different application parameters, the second portion continues to display the measurements of performance of the application". Therefore, the combination of claims

1-28 of copending application no. 10/730,901 with King does not make claims 1-44 of the present application obvious.

Each of the claims now pending in this application is believed to be in condition for allowance. Accordingly, favorable reconsideration of this case and early issuance of the Notice of Allowance are respectfully requested.

Additional Fees:

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with this application to Deposit Account No. 50-4545 (5231-089-US01).

Conclusion

In view of the foregoing, all of the Examiner's rejections to the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all the claims remaining in the application. Should the Examiner feel further communication would facilitate prosecution, he is urged to call the undersigned at the phone number provided below.

Respectfully Submitted,

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Dated: April 12, 2010

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